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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAR 26 1979

MEMORANDUM

SUBJECT: Applicability of PSD to the Consolidated Edison Company

FROM: Director  
Division of Stationary Source Enforcement

TO: Meyer Scolnick, Director  
Enforcement Division - Region II

This is in response to your memo of February 15, 1979, requesting a determination as to whether the Consolidated Edison Company's proposed switch from .3% sulfur oil to 1.5% sulfur oil constitutes a "major modification" for purposes of PSD.

As discussed below, an increase in the sulfur content of a particular fuel burned at a source does not constitute use of an "alternative" fuel; is not considered a change in the method of operation; and therefore does not constitute a major modification.

I believe it has been the Agency's intent, since the development of the original PSD regulations, to exempt sulfur-in-fuel changes from preconstruction review. I refer you to 40 CFR Section 52.21(d) (I) [1977] which states,

"...A source which is modified, but does not increase the amount of sulfur oxides or particulate matter emitted, or is modified to utilize an alternative fuel, or higher sulfur content fuel, shall not be subject to this paragraph..." The paragraph referred to is entitled "Review of New Sources". It is clear that under the old regulations, in effect prior to March 1, 1978, an increase in the sulfur content of oil did not bring a facility under PSD. I am not aware of any discussion in the amended PSD regulations or the preamble to the amended regulations which indicates a change in this policy. I believe an increase in the sulfur content of oil is beyond the scope of the preconstruction review requirements of the PSD regulations.

As I'm sure you are aware, any SIP relaxation that would affect a PSD area must include a determination that the applicable increment will not be exceeded. The amount of increment that will be consumed by a SIP relaxation is determined by modeling the difference between the allowable emissions resulting from the new relaxed SIP limit and the source's baseline emissions level.

Should the State of New York decide to relax its sulfur-in-fuel regulations applicable to Con Ed, a demonstration must be made that the PSD increments will not be exceeded. In this way, protection of the increments will be accomplished.

Should you have any further questions on this issue, please contact Libby Scopino at 755-2564.

Edward E. Reich

cc: Darryl Tyler, CPDD  
Jerry Ostrov, OGC  
Stu Roth, Region II